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A

CHRONOLOGICAL SKETCH

OF THE

LEGISLATION FROM 1752 TO 1884

ON THE SUBJECT OF PRINTING

THE ACTS AND RESOLVES

OF THE

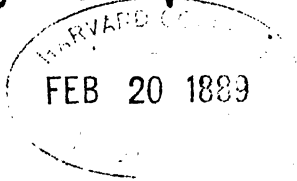
PROVINCE OF MASSACHUSETTS BAY.

WITH A TABLE SHOWING THE PROGRESS OF THE WORK DONE BY
THE PRESENT COMMISSION, ETC.

C'
Boston.
1889.

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By mail

A SKETCH OF THE LEGISLATION RELATIVE TO
PRINTING THE PROVINCE LAWS.

1752

INSTRUCTIONS FROM THE PRIVY COUNCIL RECEIVED BY LIEUT.-
GOVERNOR PHIPS.

(No. 20.) Whereas many of the Laws heretofore passed 1752. in our Colonies and Plantations in America respectively have from time to time been either entirely or in part repealed, and others of them are expired, altered, amended or explained by means whereof persons not well acquainted with the said Laws may be led into mistakes and great prejudice and inconvenience may arise to our service ; and whereas nothing can more effectually tend to promote order and good Government secure the properties and possessions of our subjects and prevent litigious Controversies and Disputes than a clear and well digested body of Laws ; It is therefore our Will and Pleasure and We do hereby require and direct you, jointly with the Council and Assembly of our Province of the Massachusetts Bay under your Government, forthwith to consider and revise all and every the Laws, Statutes and Ordinances which are in force within the said Province, excepting only such as relate to private property or are otherwise of a private nature and in lieu thereof to frame and pass a compleat and well digested body of new Laws for the said Province, taking especial care that in the passing of each Law, due regard be had to the Methods and Regulations prescribed by these our Instructions to you, and that no Law of any kind whatsoever, making a part of such new body of Laws, be passed without a Clause inserted therein, suspending and deferring the execution thereof until our Royal Will and Pleasure may be known thereupon. And it is Our further Will and Pleasure, that when the said new Body of Laws shall have been so framed and passed as aforesaid, You do forthwith transmit each law separately under the seal of our said Province together with very particular observations thereupon to Our Commissioners for Trade and Plantations, in order to be laid before us in our Privy Council for our approbation or disallowance. — *Public Record Office, London; Mass. Bay, B. T., vol. 84, p. 378. See p. 9, post.*

FIRST MESSAGE OF LIEUT.-GOV. PHIPS TO THE GENERAL
COURT ON THE SUBJECT OF REPRINTING THE PROVINCE
LAWS.

Dec. 6, 1752. *Gentlemen of the Council & House of Representatives:*

The Court being as full now as in all Probability it will be at any time during the present Session, I think it proper to communicate to you an Affair of great Importance & well worthy of your Consideration.

During your Recess, I have rec^d an additional Instruction from the Lords Justices to the Governor or Commander in Chief of this Province, directing him jointly with the Council and Assembly to consider and revise all and every the Laws Statutes & Ordinances, which are in force, except such as are of a private Nature; And in lieu thereof to frame and pass a compleat and well digested Body of new Laws under such regulatⁿ as the said Instruction directs; a Copy of which I shall order to be laid before you. You must be sensible that many of the Province Laws are Obsolete and useless & others by frequent Additions, Explanations, Ammendments & Alterations are rendered difficult to be Understood and are variously construed and practiced upon.

I am not to Confine you to any particular Form in your proceedings but I must recommend to you a Plan which has been executed by one of his Majestys other Governm^{ts} with very good Success; A Copy of which shall also be laid before you.

It is generally allowed that there is no juster way of forming a Judgment of the Wisdom of any People than by their Body of Laws: It behoves you therefore to give the greatest Attention to what I now propose to you: And as it is a Work that will require much Time & close Application you cannot too soon engage in it.

S. PHIPS.

1753

SECOND MESSAGE OF LIEUT.-GOV. PHIPS ON THE SAME SUB-
JECT.

Jan. 3, 1753. *Gentlemen of the Council and House of Representatives:*

Several Weeks have passed since I laid before you an Instruction from the Lords Justices, ordering me to recommend to you a Revisal of the Laws that are now in Force in the Province; but no one Step has yet been taken, as I know of,

by either House in Consequence of my Message: I cannot let the Court rise, without again putting you in mind of it and urging you to a Compliance therewith, as soon as may be.
S. PHIPS.

[The council passed an order for a joint committee to prepare the draught of an answer to the foregoing messages; but nothing further appears of record.]

1754

FIRST MESSAGE OF GOV. SHIRLEY ON REPRINTING THE PROVINCE LAWS.

Gentlemen of the Council and House of Representatives. Jan. 18, 1754.

In December 1752, The Lieutenant Governor (then Commander in Chief of the Province) laid before both Houses an Additional Instruction, which he had received from the Right Hon^{ble} the Lords Justices of Great Britain, directing him jointly with the Council & Assembly, to consider and revise all and every the Laws, Statutes and Ordinances which are in force within this Province, Except such as relate to private Property, or are any wise of a private Nature, and in lieu thereof, to frame a compleat and well digested Body of New Laws, under the Regulation set forth in the Instruction, and upon the Plan recommended in the Message and to transmit it to the Right Hon.^{ble} the Lords Commissioners for trade and Plantations in Order to be laid before his Majesty in his Privy Council for his Royal Approbation or Disallowance It appears, Gentlemen, from the Books of the General Court, in the Secretary's Office, That on the 4th of January following Nothing having been Acted upon this Matter in the Assembly, the Lieutenant Governor sent a second Message to both Houses, Moving them to take it under Consideration; And the Council, on the same day, appointed three of their Members to be together with such of the House of Representatives as they should join with them a Committee to prepare the Draught of an Answer to the Lieut. Governors two Messages which Vote was sent down to the House of Representatives, for Concurrence & lodged there: But Nothing being further done in the Affair by either of the Houses.

The Lieutenant Governor by his Letter to the Lords Commissioners of Trade acquainted them with his Proceedings upon the aforesaid Instruction, and the Result of them Whereupon their Lordships, after laying this Account before the Right Hon.^{ble} the Lords of the Committee of his Majestys most Hon.^{ble} Privy Council for plantation Affairs, directed

me to press you upon my Return to my Government in the most Earnest Manner, to a compliance with his Majestys Pleasure in this Matter

To induce you to this, Gentlemen, Nothing can be wanting but a due Consideration on your part of the beneficial Consequences which will probably accrue to the Province from it

Nothing as is set forth in his Majestys Instruction can more effectually tend to promote Order and good Government, secure the Properties & Possessions of his Majestys Subjects, and prevent litigious Controversies and Disputes than a clear and well digested Body of Laws. On the other Hand the Perplexity which must arise in a Body of Laws where many of them have from time to time been either entirely or in part repealed, are expired altered, amended or explained hath a direct Tendency to produce the contrary Effects

That such is the present State of the Laws of this Province, whoever will cast their Eyes over the Province Law Book and examine into the Number of Acts made for repealing altering, amending explaining or revising not only single Acts, Paragraphs or Clauses of Single Acts, but for the Explanation and Alteration of some Clauses or even Sentences and the Repealing of others contained in several Acts of different Natures, all promiscuously blended together in the same Explanatory Act; and particularly, the Number of Acts made in further Addition to and Explanation of sundry Acts, all made in Addition to the same original Act, and some of them in Addition to each other, must soon be Convinced, as he will also be of the expediency of Collecting the several Scattered Acts, Paragraphs and Sentences of Acts relating to the same Matter into a Clear well digested Body of Laws, in order to render them more plain & Useful to the Community in general, for whose Benefit they are made; and prevent litigious Disputes which may arise from Mistakes occasioned from their present indigested State

As one Instance, Gentlemen, in particular, of the present confused State of the Province Laws, I would observe to you that no less than eleven Acts have been made in Addition to or Explanation of the Act passed in the fourth Year of King William and Queen Mary for the Settlement of the Estates of Intestates, besides several Acts relative to it, which contain other Matters likewise, blended together, Insomuch that it requires a critical knowledge in the Law rightly to comprehend the whole Effect of these several Acts which are rendered so obscure by the Multiplicity and the inconnected Order they at present ly in that several of the Judges of Probate within the Province seem to practice variously upon them in their respective Counties.

Many Instances of this kind may be pointed out in the Prov-

ince Law Book ; but every Gentlemans own observation will readily suggest them to him so that I believe it will be easily allowed that the Reducing of the Province Laws now in force, from the perplexed obscure state in which the Multitude of Additional or Explanatory Acts, and others made for the Alteration Amendm't. or Revival of them hath involved them, into a regular well digested clear Body of Laws would be greatly Serviceable to his Majesty's Subjects within this Province in particular & is a very desiraeable Work. And what reasonable Objection can be made, Gentlemen, to your entering upon the Execution of it, I cant after the most mature Consideration I am able to give this Matter, apprehend. You will be under no Obligation in Executing it to make any Alteration in the Substance of your present Laws : all that is proposed is that the three Branches of the Legislature should consider and revise such of them as are not of a private Nature and in Lieu of them frame & pass a compleat and well digested Body of new Laws. In doing this, you will exercise the same Liberty and Freedom of Judgment, which former Assemblies at first used in the Enacting of the present Laws : Such of them as you shall judge it Advisable to continue in their present Form, you will re-enact in the same Words in which they were at first passed : And as to the new Framing of such as you shall think it best to have altered by collecting the several additional or explanatory Laws, Clauses or Sentences of Laws relative to the same Matter, which is at present scattered in a confused manner in the Law Book, into one or more well digested Act or Acts in order to make them more clear and easier of Construction to the Inhabitants in general and consequently of greater Utility to the Community, You will use your own Discretion, by which you are to be regulated solely in compiling the new Body of Laws.

And after passing them, I am ordered by his Majesty to transmit each of them separately under the Seal of the Province together with very particular Observations thereupon to the Lords Commissioners for Trade and Plantations in order to be laid before his Majesty in his Privy Council for his Royal Approbation or Disallowance which is the Condition prescribed in your Charter with regard to every Law that is passed in the Province in order to its receiving his Majesty's final Sanction or Disallowance.

It is therefore most evident, Gentlemen, that your Compliance with his Majesty's Royal Pleasure in this Case will not have the least Tendency to infringe upon your Charter Privilege, granted for the framing and passing of Laws for the Government and Welfare of his Majesty's Subjects within this Province Neither can I foresee any Inconvenience which can

attend it. As to what some Gentlemen have thought that in Case any part of the new Body of Laws shall be disallowed by his Majesty the whole will be void I don't apprehend there is any danger of that ; for the Body is to be composed of several single Acts, which are to be transmitted separately, each under the Seal of the Province, for his Majesty's Approbation or disallowance : So that th'o his Majesty should disallow of some, that could not affect the others which he should approve of ; but they would finally have their intended Force and Effect. If indeed, as I have heard many imagine, the present Laws w^{ch} may be repealed by any of the new Ones should be absolutely vacated by the repealing Clauses in those Acts, so that in case of his Majesty's disallowance of those new Laws, the old Laws repealed by them should not be revived upon such disallowance, And the Consequence w^d be that the Province will loose the Benefit of its old Laws as well as of the new ones : That would indeed be a very considerable Objection against venturing to compile a new Body of Laws : But that will appear upon Consideration to be a manifest Mistake for it is well known that in the common case of Passing any new Law for the alteration or repealing of a former Law, If his Majesty disallows the new one, the alteration or repeal of the former Law thereon contained is disallowed too, and that the Effects of such disallowance is to restore the old Law to its former Force and Vigour.

It is true indeed, that, notwithstanding this, that if any of the new Laws should immediately take Effect upon their being passed here and be acted upon for two or three years, and be finally disallowed by his Majesty, Inconveniences might arise from the Operation of them during the time which shall intervene between the Passing of them by the Legislature of the Province and his Majesty's disallowance of them : But such Inconveniences are effectually guarded against by the Provision made in his Majesty's Instruction which directs that a Clause shall be inserted in every one of the new Laws to prevent their taking Effect untill they shall receive his Majesty's Royal Approbation or Disallowance : So that the Laws now in being will remain in their present Force until his Royal Pleasure shall be known : And not the least Risque will be run of any Inconvenience in the Case.

As to any Jealousies, Gentlemen, That an Attempt may be made, upon this Occasion, to introduce Alteration into any of the new Laws ; It is expressly declared in his Majesty's Instructions, that they are to be transmitted only to receive his Majesty's Royal Approbation or Disallowance, and there is no more foundation for such a Jealousy, than there is in the ordinary Case of transmitting Home any single Law what-

ever from the Province in Order to be laid before his Majesty for his Royal Approbation or Disallowance.

This Scheme, Gentlemen, I must observe to you, took its Rise from a Voluntary Motion of the Assembly in his Majesty's Colony of Virginia occasioned by the Inconvenience they found within that Government from the Disorder and Confusion, arising from the many Acts, made there, for Altering, Explaining, repealing and Reviving their Laws: And the good Effects which his Majesty's Subjects of that Colony found from their Execution of it induc'd him to communicate them to his Subjects in his other Colonies upon this continent by sending his Instructions, now laid before you to his Several Governors there to recommend the Example of his Colony of Virginia to them and the Plan upon which they have proceeded with so much Success; though the following of that is entirely left to your own Discretion.

Gentlemen, This is a Remarkable Instance of his Majesty's Paternal Care of his Subjects within his Colonies and his constant Attention to their Welfare in every respect: I hope you will receive it as such, and pay a due Regard to it, that you will Readily embrace the Opportunity now Offered you, of doing a most Signal Service to your Country & distinguish this Assembly in the Annals of its History, for setting on Foot so Salutary a Work

W. SHIRLEY.

REPORT OF A JOINT COMMITTEE OF THE LEGISLATURE ON
GOVERNOR SHIRLEY'S MESSAGE.

Province of Massachusetts Bay.

The Report of a Committee of the Council and House of Representatives appointed the 22d of January last to take under consideration his Excellency's Speech of the 18th of said January recommending a general revisal of the Laws of the Province in order to their being passed anew by the General Court & laid before his Majesty for his Royal approbation &c. Apr. 18, 1754.

We have duly attended the Service and upon a full consideration of the affair we humbly report as our opinion that it will be advisable so far to agree to the proposal made by his Excellency as to cause the several Laws that are now in force to be revised and where any amendments or alterations either as to form or substance shall be thought necessary in any particular Laws, that such Laws, & no other, be anew drawn & laid before the Court in order to their passing on the same, that particular regard be had to the several instances of perplexitys in the Laws as pointed out in his Excellency's Speech and that a Committee of both Houses be now appointed for the

Services aforesaid and required forthwith to attend the same & to make report of their doings to the General Assembly of the next year.

which is humbly submitted

p SAM^L WATTS p ord^r

Apr. 20, 1754.

[This was referred to the next General Court.]

ORDER OF THE HOUSE FOR A REVISION OF THE PROVINCE
LAWS. THE COUNCIL NONCONCUR.

Nov. 15, 1754. In the House of Rep^{rs} Novem^r 15th 1754—

Ordered that Judge Russel Col. Saltonstall & Col. Choate with Such as the Hon^{ble} Board Shall join be a Committee to make a revisal of the Several Laws of this Province, and that it be done in the recess of the Court & the Committee paid therefor as this Court Shall Order S^d Com^{tee} to report from time to time as they prepare the Several Laws.

Sent up for Concurrence

T HUBBARD Spk^r

In Council Novem^r 15, 1754 Read and Non Concur'd

THO^s CLARKE Dp^{ty} Secry

[*From Palfrey's History of New England, vol. 5, pp. 114, 115:*]

"In the tranquil period which immediately followed the termination of the war and the adjustment of the currency, an unsuccessful attempt was made to obtain a revisal of the Provincial laws, some of which were complained of as equivocal; others had been found to be conflicting, and others had by common consent gone out of use. . . . the Lieutenant-Governor, with the Council's approbation, recommended a revisal. But the House dissented, being apprehensive that their whole legal system would be thus brought under the royal cognizance. The House before long took a different view of the question; but the Council had now altered its mind, and the scheme fell to the ground."

1756

GOVERNOR SHIRLEY'S SECOND MESSAGE ON THE SAME SUBJECT.

Aug. 20, 1756. Gentlemen of the Council, & House of Representatives:

I have repeatedly recommended to former Assemblies the

appointing a Committee to revise the Laws of the Province, the Particular Plan for which has been laid before those Assemblies, and may now be found on your Files, I Cannot suffer this Court to rise without again urging a Consideration of this affair, it appears to me to be a Matter of great moment; besides the Inaccuracy of some of your Laws, there are many which Militate one with another, & others are expressed in ambiguous terms, so as to render the Construction various & frequently altering; All which is not only dishonourable to the Legislature, but must be of bad Consequence to the People of the Government. You must be convinced Gentlemen that I can have nothing in view but the Real Advantage of the Province, and I hope you will engage in the Affair without delay.

W. SHIRLEY.

[This was referred to a joint committee, which never reported.]

Aug. 26, 1756.

1757

INSTRUCTIONS FROM THE PRIVY COUNCIL TO GOV. POWNALL, Feb. 17, 1757.

The Instruction from the Privy Council, which Lieut. Gov. Phips received in 1752, was renewed to Gov. Pownall, under this date. See, *ante*, first page.

1771

LEGISLATIVE ORDER FOR A COMMITTEE TO REPORT ON THE
OLD IMPRESSIONS OF THE PROVINCE LAWS.

In Council. Whereas it appears to the Board that there are sundry laws omitted in the last impression of the laws of the Province. May 31, 1771.

Ordered that James Otis, George Leonard and James Humphrey, Esquires with such as the honorable House shall join be a committee to supervise the last and former impressions of the Province Laws and report what is proper to be done thereon.

In the House of Representatives. Read and concurred, and Mr. Leonard, Mr. Ingersoll, Mr. Otis and Mr. Hobson are joined.

REPORT OF THE COMMITTEE APPOINTED IN THE FOREGOING ORDER.

June 21, 1771. The following Report was made to the Court by the Committee appointed for the purposes therein mentioned, viz:—

The Committee appointed to see what Laws of the Province were omitted in the last Impression of the Province Laws both Perpetual and Temporary have attended that service and beg leave to report that they find a great number of the standing Laws omitted in the last Impression and some in the Impression of the last but one of the perpetual Laws, and also some Laws left out of the last Impression of the Temporary Laws, and therefore are humbly of the opinion that it is ABSOLUTELY NECESSARY *that there should be a compleatly new impression of the perpetual and temporary Laws of this Province*, and that a Committee of this Court be appointed to transact the business in the recess so far as to revise said Laws and make a full collection of the same and to report at the next Session of this Court what of said Laws are necessary to be Printed.

All which is humbly submitted,

φ Order, JAMES OTIS.

ORDER ACCEPTING THE FOREGOING REPORT AND APPOINTING
A COMMITTEE TO SUPERINTEND A NEW IMPRESSION OF THE
PROVINCE LAWS.

June 21, 1771. Upon which the following Order passed viz:

In Council, Read and accepted and thereupon Ordered that William Brattle and James Bowdoin Esq^{rs} with such as the hon^{ble} House shall join be a Committee for the purposes above mentioned.

In the House of Representatives, Read and Concurred, and M^r Speaker, M^r Otis and M^r Adams are joined.

[Gov. Hutchinson withheld his approval of this measure for the reasons given in his letter, post.]

1772

SECOND RESOLVE FOR A NEW IMPRESSION OF THE PROVINCE LAWS; AND FOR CHOOSING A COMMITTEE FOR THAT PURPOSE.

June 3, 1772. In the House of Representatives Resolved that there be a new Impression of the Province Laws, and that a Committee be chosen on Friday next at three o'Clock P M by joint ballot to revise the Laws for that purpose.

In Council Read & Concurred.

COMMITTEE ON THE REVISION CHOSEN.

Upon a Motion, Ordered, That a Message go up to the June 5, 1772. honorable Board to acquaint them that this House is now ready to proceed to the Choice of a Committee to revise the Province Laws.

George Leonard, Esq; came down from the honorable Board to acquaint the House that the Board is also ready to come to the Choice of such Committee.

Ordered, That Mr. Pickering, Major Thayer and Capt. Derby be a Committee to carry up the Votes of this House for a Committee to revise the Province Laws, to the Board, and assist in counting and sorting the same, and report the Choice that shall be made.

Harrison Gray, Esq; came down from the honorable Board to propose that the Committee be now chosen to revise the Province Laws, consist of five Gentlemen.

Ordered, That Mr. Ingersol go up to the honorable Board to acquaint them that this House do not agree to the Proposal to make Choice of five Gentlemen to revise the Province Laws, and propose that the said Committee consist of three only.

Who returned that he had delivered the Message.

Thomas Saunders, Esq; came down from the honorable Board to acquaint the House, that the Board agree to come to the Choice of three only.

Then the House proceeded to bring in their Votes, and the Committee appointed carried the same to the honorable Board, and reported that Mr. Samuel Adams, John Adams, Esq; and Samuel Pemberton, Esq; were chosen.

[This attempt failed for the reasons given in Gov. Hutchinson's letter to the Earl of Dartmouth, *post.*]

1773

THIRD ORDER OF THE GENERAL COURT FOR A NEW IMPRESSION OF THE PROVINCE LAWS.

In the House of Representatives. Whereas many Towns Mar. 5, 1773. and Districts within this Province are destitute of the Province Laws, they being out of print and not to be purchased—therefore Ordered that there be a new impression of the Laws of this Province.

In Council, read and Concurred and further Ordered that

such Impression include all the Laws that have been enacted since the present Charter that are now in force, and that the same be in distinct volumes as the nature of them shall require, and that there be printed at the expense of the Province a number of Sets not exceeding five hundred ; each County Town and District within the Province and each Member of the present General Assembly to be accommodated with one set. And that William Brattle and James Bowdoin Esq^r. with such as the hon^{ble} House may join be a Committee for the purpose aforesaid. *D.—*

In the House of Representatives, Read and Concurred and Mr. Speaker Mr. Adams and Col^o. Thayer are joined.

• In Council, Read and reconsidered and Concurred with the amendment at *D—* at *D* insert— And that the printing be done under the direction of the Governor & Council.

In the House of Representatives, Read and unanimously nonconcurred and the House adhere to their own vote.

In Council, Read and nonconcurred—

In the House of Representatives— Ordered that Mr. Speaker, Mr. Pickering and Mr. Denny be a Committee of this House to confer with such Committee as the hon.^{ble} Board shall appoint upon the republication of the Laws of this Province.

In Council, Read and Concurred and Harrison Gray, Samuel Dexter and Walter Spooner Esq.^{rs} are joined.

[This measure failed for the reason given in the following letter :—]

GOVERNOR HUTCHINSON'S LETTER TO THE EARL OF DARTMOUTH.

[*Extract.*]

Mar. 20, 1773. My Lord :

I am obliged also to acquaint your Lordship that a vote has passed the two Houses both in this and the former session for a new impression of the Province laws which have been some time out of Print. I think that printing the laws may very properly be claimed as part of the Prerogative, but in the Colonies it is attended with expences as no Printer will undertake it unless a sufficient number of books be engaged and therefore in this Colony, and I believe generally, it has been done by a vote of the General Court originated with the Representatives and the care of the impression left with a Committee and I refused my assent to these votes because I found it to be the declaration of one or more of the Members of the House that none of the Acts of Parliament which are printed with the Province Laws should be brought into the new im-

pression. I should have thought it of less importance if it had not evidently proceeded from the denial of the authority of those and all other Acts of Parliament which immediately respect us and I think myself obliged to mention it to your Lordship as a proof of a fixed resolution to avoid acknowledging the supremacy of Parliament.— *Public Record Office, London; B. T., Mass. Bay, vol. 82.*

[This was the last attempt, before the Revolution, to revise the Province Laws.]

ACTION SINCE THE ADOPTION OF THE CONSTITUTION OF THE COMMONWEALTH.

1788

[The first revised edition of the Perpetual Laws of the Commonwealth was "compiled, arranged and printed" by Isaiah Thomas, in 1788, agreeably "to the wishes of many respectable law characters, and the approbation of the honorable judges of the Supreme Judicial Court;" and was dedicated to the Hon. William Cushing, chief justice, and his associates, of that Court. It was the basis of the edition printed for the Commonwealth the next year by Adams and Nourse. The following extracts are from the preface, and from the last page of the index.]

FROM THE PREFACE OF THOMAS'S EDITION.

As the Statutes of this Commonwealth, made since the establishment of the Constitution, have never been printed in any well-digested order, general Complaint has been made for the want of such a work. * * * * *

The Editor begs leave to acknowledge, with gratitude, the assistance he has received in this work, from several gentlemen, learned in the law, and the obligation he is under to the Secretary of this Commonwealth, for his readiness in comparing the acts in this volume with the original laws remaining in his office.

Should this edition, which has been honoured with the plaudits of many eminent characters, meet with the favourable reception of an indulgent Publick, a second octavo volume, to contain the Temporary Statutes, will speedily be committed to the Press.

FROM THE LAST PAGE OF THE INDEX OF THOMAS'S EDITION.

* * it was exceedingly difficult to obtain some copies of the laws, contained in this book, entirely free from errors. * *

1799

[Eleven years elapsed before another edition was issued by Thomas. This was brought down to the beginning of the year 1799. In it the acts were arranged in chronological order. The cause of the delay, and a prospectus of a third volume, are thus set forth in the prologue, or prefatory address "to the public."]

EDITOR'S REASONS FOR DELAY, ETC.

1799. THIS Volume has been much longer in making its appearance, than the Editor intended. *The delay was owing to the Revision of the Laws not being completed.*

* * * * *

If sufficient encouragement can be obtained, the Editor will reprint the Laws made during the Revolution, together with all special and temporary Acts, in force, passed since the establishment of the Constitution of the Commonwealth. These, it is supposed, may be comprised in about three Volumes, of the size of this. Should he fail of encouragement, he must content himself by publishing a third volume of perpetual Laws, as soon as a sufficient number are passed to make a volume of 300 or 400 pages.

JOINT COMMITTEE OF THE LEGISLATURE ON THE SUBJECT OF
NEW IMPRESSION AND REVISION OF THE LAWS.

- Jan. 16, 1799. [The work of revision seems to have been continued during the interval between 1788 and 1799. A Committee of the General Court, consisting of Nathan Dane and Elijah Brigham of the Senate, and Messrs. Lowell, Slocum, and Williams of Pittsfield, of the House, had been appointed "to consider and report upon the measures necessary to be taken for a new impression of the statute laws of the Commonwealth and the completion of the revision thereof," and to this committee Thomas made a proposal to supply the books contemplated in this resolve. The committee thereupon made the following report:—]
- Jan. 24, 1799.

REPORT OF THE COMMITTEE.

- Feb. 28, 1799. The Committee of both Houses appointed "to consider and report the measures necessary to be taken for a new impression of the Statute laws of the Commonwealth and the compilation of the revision thereof"—ask leave to report that they have attended the service assigned to them and have received from Isaiah Thomas proposals for printing said Statute laws therein stating "that he hath just issued from his press a new Edition of said statute laws from the year 1788 to the present

session of the Legislature with a complete index thereto comprised in a volume of 550 pages large 8^{vo} and that he will supply the Legislature with any number of copies they may please to purchase" at two dollars a volume — "the copies shall all be handsomely bound and lettered like the specimen herewith presented— also stating therein "that he will reprint and supply any number of copies which the Legislature may direct in another volume of the statute laws (to be called the first) passed previously to 1788 revised and unrevised compiled agreeably to the directions of the Legislature with a complete index thereto and the volume to be of the same size page and type and at the same price with the one above mentioned and should it make any number of pages more or less the price to be in proportion" — also stating that he "will engage to supply as aforesaid a third volume of like size &c., and match those before mentioned to contain all local or special acts with a complete index annexed which are or may be omitted in the first and second volumes on like terms"— on considering these proposals the committee are of opinion they are reasonable and that Mr. Thomas ought to be encouraged in the manner proposed and contracted with to carry his said plan into effect with such alterations therein as a committee to be appointed by the Legislature to superintend the said impression may deem necessary to render the said plan more complete—therefore the said committee submit the following resolve:—

N. DANE, per order

[This committee reported a resolve accordingly. This resolve, however, Feb. 16, 1799. was accepted and passed, "as taken into a new draft," in which all express reference to Thomas and his proposal was omitted, as follows:—]

RESOLVE AUTHORIZING A CONTRACT FOR A NEW EDITION.

Resolved, That the Hon. Nathan Dane, George Richards Feb. 28, 1799. Minot, and John Davis, Esqrs. be and hereby are appointed a Committee, and authorized, in behalf of this Commonwealth, to contract for a new edition of the Statute Laws of this Commonwealth, passed or to be passed previous to the end of the present session of the General Court, revised or unrevised. Said edition to contain the Constitution of the United States and of this State, the Statute Laws and parts of Statute Laws of a publick nature of this Commonwealth, *and such British Statutes and parts of British Statutes, adopted and now practised upon in this State, as the said Committee shall judge necessary*: and shall also contain the titles and dates of such private or special Statute Laws of this Commonwealth, as the

said Committee may direct. And to Each volume there shall be formed and annexed a complete Index, together with such marginal references as said Committee may approve.

And it is further resolved, that the Committee aforesaid are hereby authorized to agree with the person or persons that may undertake the work aforesaid, for five hundred sets of said edition, for the use of this Commonwealth, for such price as shall appear reasonable to said Committee.

[The "British Statutes and parts of British Statutes" referred to above were certain ordinances of the Colony and Acts of the Province comprised in about one hundred pages of Thomas's supplementary or third volume. They constitute the "appendix" of that volume, and of the second volume of the Commonwealth's edition, printed by Manning and Loring, to whom the Committee finally awarded the contract for printing the new edition.

After the committee named in the foregoing resolve had been engaged nearly two years in the work of revising, etc., a joint committee of the Legislature was appointed Jan. 31, 1801, to inquire "what forwardness that business was in, and to consider what measures are proper to be adopted to prevent the expectations of the Commonwealth respecting the same from being disappointed," who reported on the third of March, and three days later their report was taken into a new draught in the form of a resolve providing for the delivery and distribution of the books. The cause of the delay is shown in the following report of the committee on revision:—]

1801

REPORT OF COMMITTEE TO CONTRACT FOR PRINTING.

Feb. 11, 1801. The Committee appointed by a Resolution of the General Court passed February 28th 1799 to contract for a new edition of the Statute Laws of the Commonwealth respectfully report

That they entered into a Contract with Mess^{rs} Manning and Loring for that purpose, on the 24th Oct^r 1799, having previously made a selection of the said Laws, and arranged the order of printing them: and they herewith present a copy of the Contract together with a copy of the two Volumes executed agreeably to it.

That in attempting an accomplishment of that part of the said Resolution which directs the publication of *such British Statutes and parts of British Statutes as were adopted and practised upon in this State*, some impediments presented and after due deliberation upon the subject it was thought most expedient by the Committee, that this portion of the law of the Commonwealth should be included in a separate compilation. *It was found that a full compliance with the direction of the General Court in this particular, required an accuracy and*

extent of research, which could not be prosecuted, and compleated to the satisfaction of the Committee WITHOUT TOO FAR PROTRACTING THE PUBLICATION : They considered that a future separate compilation of the portion of British Statute law referred to in the Resolution, would probably be more perfect, than any selection which they could prepare within the period for publication contemplated by the Government.

All which is humbly submitted—

Boston, Feb^y 11th, 1801.

NATHAN DANE
GEO R MINOT
JN^o DAVIS

[At what time the books containing the appendix of Province laws, etc., actually issued from the press, has not been ascertained, nor precisely when the committee on revision finished their labors. By the following resolves, however, it appears that the committee were paid for their completed services, in June, though the books were advertised for sale in March:—]

RESOLVE FOR PAYING THE COMMITTEE.

Resolved, That there be allowed to Nathan Dane, George June 11, 1801. R. Minott, and John Davis, Esquires, a Committee appointed by the Legislature of this Commonwealth, to collect and contract for a new edition of the Laws of the same, at the rate of three dollars per day for the time they were employed in perfecting the business assigned them ; and the Committee of Accounts are authorized to allow their account accordingly.

1807

SECOND COMMONWEALTH EDITION.

[The former edition having become exhausted in 1807, Thomas and his partner Andrews, made the following proposal for supplying the Commonwealth with a new Impression:—]

MEMORIAL OF THOMAS & ANDREWS, PRINTERS.

To the Hon. Senate and House of Representatives of the Jan. 15, 1807. Commonwealth of Massachusetts.

The Memorial of Thomas & Andrews humbly shews,

That they are engaged in printing a new Edition of the Perpetual Laws of the Commonwealth, similar to the Edition printed in 1801 by order of the General Court and having been informed, at the Secretary's Office, that there are no copies of that Edition remaining on hand, they are disposed to sell to

the state such number of Copies as may be wanted, on reasonable terms, and request such measures may be taken relating to the subject, as to the honorable Court may seem proper.

THOMAS & ANDREWS.

RESOLVE AUTHORIZING A CONTRACT FOR THE EDITION OF
1807.

Commonwealth of Massachusetts—

Feb. 3, 1807. In the Year of our Lord, One thousand eight hundred & seven

Resolved That Mr Story Mr Sullivan and Mr Bangs be a Committee in behalf of this Commonwealth to contract with any person or persons for twelve hundred Copies of a new edition of such Laws of this Commonwealth as were published pursuant to a Resolve passed the twenty eighth day of February—In the Year of our Lord one thousand seven hundred & ninety nine—The said new edition to be comprised in two volumes of size, type and paper similar to those used in the former edition abovementioned, and together with proper Indexes to be bound and lettered.

[Under this resolve the second 8vo. edition for the Commonwealth was purchased of Thomas & Andrews.]

1812-14

[A more complete and satisfactory collection of the pre-constitutional laws being required, the following resolve was passed under which the collection, known as the Ancient Charters and Laws of the Colony and Province of Massachusetts Bay, was prepared and published.]

RESOLVE APPOINTING A COMMITTEE TO PREPARE THE EDITION
OF 1812-14.

Resolved, That the Honourable Nathan Dane,¹ William Prescott,² and Joseph Story,³ Esquires, be a committee, at the expense of the commonwealth, to collect the Charters and the publick and general Laws of the late colony and province of Massachusetts Bay; and that the said committee be and they are hereby authorized, when the same Laws and Charters shall

¹The founder of the Dane Law School of Harvard University.]

²An eminent lawyer and magistrate—father of Wm. H. Prescott, the historian.

³Afterwards a justice of the U. S. Supreme Court and of world-wide fame as a jurist.

be collected as aforesaid, to cause five hundred copies⁴ thereof to be printed at the expense of and for the use of this commonwealth, in a volume of the royal octavo size, with suitable title pages, running titles, and analytical indexes. And the said committee are hereby further authorized to add in an appendix any other documents or laws which they may deem proper to explain the jurisprudence of this commonwealth. And that the said committee be required to proceed as soon as conveniently may be in the execution of the purposes of this resolve.

And be it further resolved, that the said committee, after they shall have collected and examined the same laws, report to the legislature such laws as are not repealed, and which in their opinion require to be repealed.

COLLECTIONS OF THE ORIGINAL IMPRESSIONS OF THE PROVINCE LAWS.

1854

PROCEEDINGS OF THE MASSACHUSETTS HISTORICAL SOCIETY FOR COLLECTING ANCIENT LAWS, ETC.

On motion of Mr. Ames.

Voted, That Messrs. Clifford, Ames, and Sparks be a committee to frame, and report at the next meeting of the Society, a suitable circular to be issued by this Society, and to be sent to such Town-Clerks, such descendants of members of the General Court in Colonial and Provincial times, and such other persons as may probably have in their possession, reach, and control, any copies of the colonial or provincial laws, or fragments or loose leaves thereof, and any copies of the printed journals of the House of Representatives, or parts or fragments thereof, from May, 1715, to May, 1785, in order that they may communicate what they may have, to the end that the Society may, while it is possible, collect and preserve one or more copies thereof for public use. Mar. 9, 1854.

Also, *voted*, To refer to the same Committee, with full power to act in the premises according to their discretion, the following additional motion made by Mr. Ames: viz.; That

⁴By a resolve passed June 11, 1813, this number was increased to one thousand.

the Society do forthwith present their memorial or petition to the General Court, now in session, praying that the appropriate means be taken to preserve for public use one or more copies of a complete series of the statutes or Acts of the General Court which were printed in colonial and provincial times ; and also a complete series of all the printed journals of the House of Representatives that were ever printed, beginning with the year 1715.—*Mass. Hist. Soc. Proc.*, vol. 2, p. 553.

[A printed circular was accordingly issued July 13, 1854, and another Aug. 10, 1854.]

Nov. 9, 1854. Mr. Ames read a letter from the Hon. Mr. Justice Aylwin, of the Court of Queen's Bench, Canada, in reply to the circular of this Society, concerning the Province Laws, &c. And, thereupon,

Voted, That Mr. Ames be a committee to communicate with the Hon. Mr. Justice Aylwin upon the subject of the copy of the Massachusetts Laws in the Advocates' Library at Quebec, certified under the Province seal and the signature of Governor Bernard ; and of Mr. Justice Aylwin's copy of the Temporary Laws of the Province of the Massachusetts Bay edition of 1755, pages 561 ; and such other matter connected with the subject of the Province Laws and Journal of the House of Representatives ; and also tender to Mr. Justice Aylwin the cordial thanks of the Society for his kind service. [*Ibid.*, p. 595.]

PROCEEDINGS OF THE AMERICAN ANTIQUARIAN SOCIETY, FOR
COLLECTING ANCIENT LAWS, ETC.

Oct. 23, 1854. The fact has been averted to, in previous reports, that the government itself possesses no entire series of the laws and legislative journals of Massachusetts, and that they were not known to be complete in any one collection. [*Report of Librarian.*

* * * * *

It is hoped that we may ultimately be able to say that here at least is preserved the entire body of the printed Acts, Resolves, and Journals of Massachusetts, as a Colony, a Province, and a Commonwealth. [*Ibid.*

* * * * *

It happens, too, that members of this Institution have been,

and are, intimately connected with the public affairs of Massachusetts in its highest executive and judicial stations, and were members of the Society before they occupied these posts of honor and responsibility. One, who now fills the Executive chair of the Commonwealth, many years since employed the scanty leisure of a busy professional life in bringing together the widely-scattered materials of its judicial history; a labor whose difficulty can be appreciated only by those who know the fragmentary and imperfect sources from whence the facts were collected. Another, now deceased, compiled the history of its Revolutionary Congresses. It is a necessity of the local position of this Society, as well as of the historical position and character of the State, that Massachusetts should receive a prominent share of attention. [*Ibid.*]

1855

REPORT OF LIBRARIAN.

Some valuable additions have been made to the series of Apr. 25, 1855. early laws and legislative journals of this Commonwealth. The imperfect condition of these important political and historical documents in all the libraries of the State has been sufficiently commented on in former reports. Our own efforts to supply deficiencies continue to meet with encouraging success; and especial thanks are due to a member of the Society residing out of Massachusetts (George Brinley, jun., Esq., of Hartford, Conn.), for the efforts he has used, and the liberal assistance he has rendered, towards the accomplishment of this object.

Taking warning from experience of the careless manner in which the printed documents of legislative bodies are wont to be treated, and the frequent gaps that usually exist in their series, even in the official departments where they are supposed to be preserved, the Society has, from time to time, tendered its shelves for the reception of such publications, and its care and attention to their security. [*Ibid.*]

COMMONWEALTH'S PUBLICATION OF THE PROVINCE LAWS.

1861

EXTRACT FROM GOVERNOR ANDREW'S INAUGURAL ADDRESS.

I earnestly recommend the collection and publication under Jan. 5, 1861.

the patronage of the Commonwealth, of the statutes enacted between the time of the union of the two colonies of Plymouth and Massachusetts Bay under the Charter of William and Mary in 1691, and that of the adoption of the Constitution of 1780. Not more than a moiety of these Provincial Laws are to be found among the accumulations of the State Library ; but the zeal and intelligent industry of one gentleman of the bar have enabled him, after years of careful search, to complete a collection of them. They are of inestimable value on account of their historical interest, their usefulness in throwing light upon subsequent legislation, and the assistance which they afford in the determination of many important questions mooted by the profession and the courts.

1861

[REPORT OF COMMITTEE ON THE LIBRARY :—]

Mar. 20, 1861.

SENATE....No. 108.

Commonwealth of Massachusetts.

IN SENATE, March 20, 1861.

The Committee on the Library, to whom was referred so much of the Governor's Message as relates to the publication of the Provincial Statutes, respectfully

REPORT :

By the constitution of the Commonwealth the statutes of the Province, Colony and State of Massachusetts Bay, not repugnant to that constitution, are continued in force until altered or repealed by the legislature. As there has been no general repeal of these statutes, many of them are still part of the law of the land, and a much larger number are subjects of frequent reference in controversies relating to facts which occurred, or titles which became vested, while they were in force. As time goes on, and the knowledge of these laws, derived from memory and tradition, disappears, the importance of making them publicly known increases.

A few examples will illustrate the present operation of these statutes better than any general statement. Cases involving the settlement of paupers, and the construction of ancient deeds and wills, are very familiar. Some statutes of the Prov-

ince, affecting the titles of valuable lands, are not to be found except in the old and rare folio editions. Instances of the application of such statutes may be found in *Holland v. Cruft*, 3 Gray, 164, 173, and *Brown v. Wenham*, 10 Met. 498.

The Acts of the Province of 8 Anne and 15 George II., regulating the taking of fish, are equally inaccessible ; yet they are public statutes, binding all the citizens, and of which the courts are bound to take judicial notice, and have repeatedly influenced the decisions of the supreme judicial court, not only upon conflicting rights in the fisheries and in the streams where they exist, but upon the comparative title and use of individuals and the public in the flats upon the sea-shore, and the obligation and effect of the lines established by the legislature for the protection of harbors. *Commonwealth v. Ruggles*, 10 Mass. 391 ; *Commonwealth v. Chapin*, 5 Pick. 203 ; *Commonwealth v. Alger*, 7 Cush. 101 ; *Commonwealth v. Essex Company*, 13 Gray, 241, 248.

There can be no better evidence of the importance and even necessity of publishing these statutes than the recent decision of the supreme judicial court, by which the title of the Commonwealth was established in a very valuable tract of land in the Back Bay. That judgment was based in great part upon the early Acts of the Colony, relating to the organization of towns, then recently rendered accessible in the publication by the State of the Massachusetts Colony Records.

There are no such means for pursuing similar investigations of a later period. Those volumes contain nothing since the Province Charter. Yet between the arrival of that charter in May, 1692, and October, 1780, when the State constitution took effect, no less than one hundred and sixty of our towns in Massachusetts, as it now is, were incorporated, besides many others, then in this Province, but now forming parts of the States of Maine, New Hampshire, Rhode Island and Connecticut, and at least twenty-eight of those one hundred and sixty Acts of incorporation have never been published in any form by the legislature of the Province or Commonwealth. During the same period many parishes which still exist were incorporated. And there would seem to be no good reason, when all the special Acts passed since the adoption of the constitution are published, for keeping the older ones, of equal force and greater interest hidden.

The Provincial Statutes, whether public or private, in force or repealed, are of the greatest value in the interpretation of the existing statutes of the Commonwealth, and even of the constitution itself. It is a familiar rule in the construction of statutes, frequently applied by the courts, that all Acts upon the same subject, at whatever times passed, must be con-

strued together as one Act. *Holland v. Makepeace*, 8 Mass. 418; *Church v. Crocker*, 3 Mass. 22; *Goddard v. Boston*, 20 Pick. 407. And in the application to new cases, as they arise, of that article of the Declaration of Rights which prohibits the legislative department from exercising the executive and judicial powers, or either of them, the authority actually exercised by the General Court of the Province is often an invaluable guide.

In a historical point of view, the importance of the Provincial Statutes can hardly be exaggerated, covering, as they do, the whole history of the Province of Massachusetts Bay, from the union of the Colonies of Massachusetts and Plymouth to the establishment of the Commonwealth, and having had a great influence on the legislation of the other colonies.

Yet, owing to negligence in collecting the sessions laws as they were published, and accidental destruction or dispersion of such collections as were made, these laws, which ought to be easily accessible to every lawyer and judge, every legislator and town officer, and every historical student, are in fact within the reach of very few. The State Library does not contain more than one-half of them; and there are probably not more than half a dozen libraries in the Commonwealth, public and private, which comprehend as many as that. The only set which approaches completeness, and which by many years of judicious and indefatigable research and constant and zealous industry, has been rendered so nearly perfect that any trifling deficiencies in it can be easily supplied, is that of Ellis Ames, Esq., of Canton, who has most kindly and liberally offered to the Commonwealth the use of this invaluable collection in the preparation of any edition which they may desire to publish.

The collection of "the Charters and General Laws of the Colony and Province of Massachusetts Bay," published by order of the General Court in 1814, and usually cited as "the Ancient Charters," as is well known to every one who has had occasion to pursue any legal or historical inquiry in the time of the Colony or Province, is very incomplete and inaccurate, and omits many public and general statutes, and all the local and special ones.

An examination of the legislation of the first year under the Province charter will strikingly illustrate this. The Acts of that year, passed at the time of a fundamental change in the constitution of the Province, are of peculiar interest, as forming the basis of much of the subsequent legislation of the Province and Commonwealth. Yet by comparing the "Ancient Charters" with the original sessions laws, it appears that of the forty-two Acts of that year only seventeen are re-

tained. Ancient Charters, pp. 213–253 ; 734–736. Of these seventeen at least eight of the most important were disallowed by the king in council, under a power reserved in the charter, to wit, two Acts for continuing the local laws, (pp. 213, 229,) "An Act setting forth general privileges," in the nature of a Magna Charta, (p. 214,) Acts for quieting possession and settling titles, (p. 215,) making lands liable to the payment of debts, (p. 216,) and establishing courts of justice, (p. 217,) a *habeas corpus* Act, (p. 224,) and "An Act against conjuration, witchcraft, and dealing with evil and wicked spirits," (p. 735). Yet all of these, except the last, are inserted in that compilation among the perpetual statutes, without any thing to indicate how short a time they were in force.

It is essential to the general utility of an edition of the Province Laws that there should be appended to each Act notes of the action of the king in council, and references to prior and subsequent statutes and judicial decisions of the Province and Commonwealth ; and that the volumes should be in as compact, cheap and legible a form as possible, and supplied with a full general index.

In accordance with the recommendation of his excellency the governor, your Committee therefore recommend the appropriation of the sum of ten thousand dollars, as suggested in his message, and in order to carry the recommendation into effect, report the annexed Resolves.

For the Committee,

N. H. WHITING, *Chairman.*

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty-One.

RESOLVES

Relating to the Publication of the Provincial Statutes.

Resolved, That it is expedient to cause to be published, for the use of the Commonwealth, a complete edition of the Statutes and Laws of the Province and State of Massachusetts Bay from the time of the Province charter to the adoption of the constitution of the Commonwealth, including all the sessions, acts, private and public, general and special, temporary and perpetual, passed from time to time by the general court, all incorporations of towns and parishes, and all other legislative acts of legal or historical importance, appearing on the records of the general court; and that this edition be printed in volumes of octavo size, on good paper, and in as compact and cheap a form as may consist with clearness and legibility.

Resolved, That his excellency the governor, with the consent of the council be and he hereby is authorized and empowered to make all necessary contracts and arrangements for the publication of these laws, and to appoint commissioners learned in the law and in the history of Massachusetts, to revise and superintend the publication of the same, with suitable marginal references to the statutes and judicial decisions of the Province and Commonwealth, and to such other authorities as in their opinion may enhance the value and usefulness of the work, and to append to the same a full and complete index.

Resolved, That for the purposes aforesaid, there be and is hereby appropriated a sum not exceeding ten thousand dollars, to be paid out of the treasury from time to time, upon the warrant of the governor, conformably to law.

[The measure having failed, for reasons shown in Gov. Andrew's subsequent messages, the attempt was renewed immediately after, by the historical societies and in the legislature, as follows :—]

REPORT OF THE COUNCIL OF THE AMERICAN ANTIQUARIAN SOCIETY.

Oct. 21, 1861.

The legislation of every State constitutes not only a substantial part of its history, but a knowledge of it is really essential to a true appreciation of the condition and distinctive peculiarities of its people. Its positive laws are always, directly or indirectly, the production of those for whose benefit and protection they are made. This is especially true as to all communities where popular institutions of government prevail; and, accordingly, the ordinances and statutes which are a direct emanation of their will, must exhibit, in clear and vivid light, the predominating opinions, pursuits, and modes of living, in the respective periods when they are incorporated into the public code. As they show what changes in the prohibitions or requirements of existing laws are deemed, by those upon whom they are immediately to operate, necessary for individual security or the advancement of the common welfare, they may in general be consulted as a safe guide to all inquiries concerning the pursuits, intelligence, and condition of the age in which they are adopted.

It is certainly somewhat remarkable, that at this time there should remain a material deficiency in the publication, in a collected form, of the ordinances and statutes which were in force in Massachusetts, by virtue of enactments of its local legislature, acting under its provincial charter: and not only has there never been any such publication, but no perfect series of them is to be found on the files, or in the archives or public offices of the State. It is, however, well known that the means of supplying this deficiency still exist. In the last annual address of the Governor to the legislature, it is stated, that, by the zeal and intelligent industry of a learned and eminent member of the legal profession, he had succeeded in making a complete collection of all those statutes. This allusion, it seems proper to say, was to one of the members of our society, and that our resources contributed to the completion of his work. The service thus rendered by him is indeed of the most meritorious character, and the collection he has effected can hardly be too highly estimated. It is much to be regretted that the legislature did not deem it expedient to adopt the recommendation of the Governor, to appropriate the comparatively inconsiderable sum of money which would have been required for the printing and distribution of an accurate and authenticated edition of the entire body of those provincial laws.

* * * * *

Efficient measures ought to be adopted to secure the mate-

rials of this useful and complete collection from being broken up and again dispersed. If such a misfortune should occur, it would be almost too much to hope that they would once more be gathered together by the devotion and industry of future laborers.

1862

EXTRACT FROM GOV. ANDREW'S INAUGURAL ADDRESS.

* * * and of even superior importance in every point Jan. 3, 1862. of view, is the preservation by publication, of the provincial statutes of Massachusetts covering a period of nearly a century, from 1691 to 1780, the only complete collection of which in existence has been gathered in one private library in the Commonwealth, and is subject to all the risks of loss, destruction and dispersion, to which private property is necessarily liable. In my inaugural address to the General Court of 1861, I had the honor earnestly to recommend the printing of these statutes, and I desire earnestly to repeat that recommendation.

1863

PROCEEDINGS OF THE MASS. HISTORICAL SOCIETY.

Mr. Horace Gray, Jun., remarked, that the earliest statute Jan. 14, 1863. of the Province of Massachusetts Bay, "against piracy and robbing upon the sea," included under the crime of piracy "all treasons, felonies, robberies, murders, and *confederacies* in or upon the seas," as enumerated in the Provincial Statute of 8 William III. (1696) which he quoted from, "Ancient Charters and Laws" (ed. 1814), 296; saying that he had had occasion to compare this with the earlier editions, knowing it to be unsafe to rely upon the text of this.

As an instance of the inaccuracy of the "Ancient Charters," he referred to the first act of the colony for keeping records of judgments, which was passed in September, 1639, and printed on page 43 of that volume. That act, as appears by the original record in the State House (now accurately printed

in 1 Mass. Col. Rec., 275), began thus: "Whereas many judgments have been given in our courts, whereof *no* records are kept of the evidence & reasons." But "no" in the manuscript was read, by the compilers of the edition of 1814, "110," and printed "one hundred and ten;" thus making the great number of those already accumulated, instead of the want of any past records whatever, the reason for ordering judicial proceedings to be recorded for the future.

RESOLVES OF THE ESSEX INSTITUTE.

Feb. 23, 1863. At a meeting of the ESSEX INSTITUTE held at their rooms, in PLUMMER HALL, Salem, on Wednesday, February 25, 1863, the following resolutions, introduced by A. C. Goodell, Jr., were unanimously adopted.

Resolved, That this Society heartily approves the recommendation of His Excellency, Governor Andrew, in his inaugural addresses for the years 1861 and 1862, that the legislature provide for the "collection and publication, under the patronage of the Commonwealth, of the statutes enacted between the time of the union of the colonies of Plymouth and Massachusetts Bay, under the charter of William and Mary, in 1691, and that of the adoption of the Constitution in 1780;" and that this Society coincides with His Excellency in the opinion that these statutes "are of inestimable value, on account of their historical interest, their usefulness in throwing light upon subsequent legislation, and the assistance which they afford in the determination of many important questions, mooted by the courts," and also in his representations of the extreme scarcity of copies of these early law-books.

Voted, therefore, that the members of this Society are hereby requested to join in any proper measure for the purpose of urging this important subject upon the attention of the legislature, that they may make the reasonable appropriation required for the publication of said laws.

VOTE OF THE NEW ENGLAND HISTORIC-GENEALOGICAL SOCIETY.

Mar. 4, 1863. At a regular meeting of the New England Historic-Genealogical Society, holden at the Society's Rooms, in Boston, March 4th, A. D. 1863, the following resolution was offered:—

WHEREAS, on the 27th day of February, A. D. 1863, a communication was received by this Society from Henry Wheatland, Esq., Secretary of the Essex Institute, enclosing the resolve and vote of said Society, wherein they heartily approve of the recommendation of his Excellency, Governor Andrew, in his inaugural addresses for the years 1861 and 1862, to the Legislature, for the collection and publication of the statutes enacted between the years 1691 and 1780 :—

Voted, That we fully concur with the Essex Institute in the importance of collecting and publishing the colonial statutes aforesaid, and will cheerfully join in any proper measure to promote an object of such historic value ; and this Society would also recommend the publication of the journals kept by the Legislature during the same period of colonial history, as they are exceedingly valuable, and have become very scarce and are in danger of being lost.

The above preamble and vote were unanimously adopted.

1865

ACTION OF THE STANDING COMMITTEE OF THE MASSACHUSETTS HISTORICAL SOCIETY.

Resolved, That the preserving and publishing of the Statutes of Massachusetts, between 1691 and the adoption of the Constitution of 1780, is of the greatest interest, and the first importance to all engaged in the study of the laws, or the history of the Commonwealth ; and that it is very desirable that this should be done in an authentic and complete form, under the supervision of suitable Commissioners appointed by the Commonwealth, with notes indicating the action of the King in Council, annulling or confirming those Statutes, according to the power reserved in the Charter of the Province. Feb. 25, 1865.

LETTER TO GOV. ANDREW FROM A COMMITTEE OF THE MASSACHUSETTS HISTORICAL SOCIETY, ACCOMPANYING THE RESOLVE OF FEB. 25.

*Mass. Historical Society's Rooms,
Boston, Feb. 28, 1865.*

To His Excellency,

The Governor of the Commonwealth :

Sir,

The subject of the collection and publication, by authority of the Commonwealth, of the Statutes of the Prov-

ince from the union of the colonies of Plymouth and Massachusetts under the Province Charter of 1691 to the adoption of the Constitution of the Commonwealth in 1780 having been brought to the public notice by your Excellency's message to the General Court in 1861, some of the members of this and other historical societies had the honor of then appearing before a committee of the Legislature in support of the project, of the importance and value of which some curious illustrations are given in the report of that committee, being Senate Document No. 108 of that year. * * *

The Standing Committee, knowing the interest which your Excellency has repeatedly shown in this object, have directed the undersigned to communicate their resolution to you in anticipation of the meeting of the Society.

We have the honor to be Your Excellency's obedient servants,

ROBT. C. WINTHROP,
CHARLES DEANE,
HORACE GRAY, Jr.

COMMUNICATION FROM GOV. ANDREW TO THE SPEAKER OF
THE HOUSE.

*Commonwealth of Massachusetts,
Executive Department,
Boston, March 3^d, 1865,*

*To Hon. A. H. Bullock,
Speaker of the House of Representatives.*

SIR :

Mar. 3, 1865.

I received yesterday from a committee of the Massachusetts Historical Society, a letter which I enclose with this communication, concerning the needed republication of our Provincial Statutes — which, at the various sessions of the General Court when propositions for such publication have been pending, has met your approval and support. In my address to the General Court at the session of 1861, I had the honor to urge the subject upon its attention, and a careful report, earnestly recommending the publication, was made to the Senate by the committee of which Hon. Mr. Whiting was chairman. The resolves reported by the committee, failed, however, to be passed. In my address to the General Court of 1862, I again presented the subject. In 1863 and 1864 allusion was made to it occasionally in the proceedings of the General Court and its Committees, but no legislative action was taken,—not, I think, from any positive want of in-

terest in the measure, but from the greater impression produced by other matters of more immediate importance and the opinion that this one may wait yet longer.

So that now in 1865, as in 1861, the only complete collection of our Provincial Statutes exists in the library of a private citizen, liable to all the hazards of fire and the ordinary accidents to which any private library is exposed. If this collection should be dispersed or destroyed, the importance of it would be realized at once. The loss to the historian of the Commonwealth would be irreparable; and also to the jurist. There would remain no complete series of the legislative acts of the Province of Massachusetts covering that great and most interesting period of our judicial as well as political history from 1691 under the charter of William and Mary down to the adoption of the Constitution of Massachusetts in 1780. Nor could the loss be repaired.

I therefore ask leave through you to lay the subject anew, before the General Court, at the most seasonable occasion, in the hope that measures may be begun by this Legislature which will ultimately rescue the Provincial Statutes from oblivion.

The action of the Massachusetts Historical Society and of the Essex Institute, this present year, seems to afford the desirable occasion for recalling the subject to the attention of the General Court.

I have the honor to remain, with much respect,
Very truly, your obedient servant,
JOHN A. ANDREW.

VOTE OF MASSACHUSETTS HISTORICAL SOCIETY RATIFYING
ACTION OF THEIR COMMITTEE.

The President stated, that, since the last meeting of the So- Mar. 9, 1865.
ciety, a communication had been received by the Standing Committee from members of the Essex Institute, requesting the coöperation of the society, or of its officers, in recommending to the Governor of the Commonwealth the printing by authority of the State, of the Statutes of the Province, from the union of the Colonies of Plymouth and Massachusetts, under the charter of 1691, to the adoption of the Constitution of the Commonwealth of 1780. A speedy action being thought necessary, the Standing Committee, at a special meeting held 25th of February, after fully considering the subject, adopted the following resolution, which was ordered to be reported to the Society at this meeting: [*See Resolve, ante.*]

This resolution was communicated to His Excellency the Governor by a Sub-committee, consisting of Messrs. Winthrop, Deane and Horace Gray, jun. ; the receipt of which was duly acknowledged by him.

The above resolution, on being now laid before the Society, was unanimously adopted.

REPORT OF THE COMMITTEE ON THE JUDICIARY IN FAVOR OF
PROCURING A COMPLETE COPY OF THE LAWS.

Apr. 21, 1865.

The Committee on the Judiciary, to whom was referred the communication of His Excellency the Governor relative to the publication of the Provincial Statutes have considered the subject and respectfully report :

The necessity and importance of a republication of the Provincial Statutes of Massachusetts covering a period most interesting and instructive in her history extending from the time of the union of the colonies of Plymouth and Massachusetts Bay under the charter of 1691 to the time of the adoption of the Constitution of the Commonwealth in 1780 has been repeatedly called to the notice of the Legislature but has not heretofore received the attention which the subject deserves.

In 1861 the subject was alluded to in the address of His Excellency to the General Court and the matter being referred to the Committee on the Library, an elaborate and learned report in favor of the project was made by the Chairman of that Committee Hon. N. H. Whiting (Senate Doc. No. 108 of that year). In this report the necessity of preserving these statutes was clearly set forth and many examples from the reports of the decisions of our Supreme Court were cited to show their practical value. Many of these statutes relating to titles to lands, the fisheries and incorporation of towns, are of the utmost importance at the present day. The light which they would shed upon subsequent legislation cannot be magnified.

Their value to the historical student cannot be overestimated ; indeed, without access to them no complete history of the Commonwealth could be written. Their importance in this respect is recognized by those of our fellow-citizens whose tastes and studies have led them in this direction and has called forth earnest recommendations from the Mass. Historical Society and the Essex Institute that the preservation of these precious records should no longer be left to chance.

The only collection of these statutes known to be in exist-

ence and which is at all complete is now in the possession of Ellis Ames, Esq., of Canton, the result of years of labor and industry. This collection is believed to be nearly or quite complete and would undoubtedly be placed at the service of the Commonwealth for the purpose indicated.

It will be readily perceived that the hazard of fire and the many other accidents to which so valuable a collection in the hands of a private citizen is exposed render it almost imperative upon the State to take immediate measures to prevent a loss which its destruction or mutilation would render irreparable.

In the present state of our finances the Committee have not thought it advisable to recommend immediate publication, but they feel it to be their duty to recommend measures which will at least secure a copy of these records in a form which in more prosperous times will make their publication a simple question of expediency.

It is believed that among the numbers of our fellow-citizens who are interested in legal and historical studies many, in every way competent, could be found, who, for the sake of benefiting the State, would, without expense to the Treasury esteem it an honor to prepare a copy of these statutes for publication. That this should be properly done annotations of the action of the king in council should be made showing what statutes were annulled and the length of time others were in operation, as well as references to prior and subsequent statutes and the decisions of courts. In this way a most interesting and valuable legal and historical memorial would be secured and placed beyond the danger of accident or destruction.

The only expense which would be necessary would be for clerical assistance in preparing a manuscript.

In accordance therefore with the recommendation of His Excellency the Governor and with the views contained in this report your committee recommend the adoption of the accompanying resolves.

For the Committee,
H. H. COOLIDGE.

[The following resolves were approved by the Governor, April 29.]

[CHAP. 43.]

RESOLVES RELATING TO THE PUBLICATION OF THE PROVINCIAL STATUTES.

Resolved, That the governor, with the consent of the council, be and he hereby is authorized and empowered to appoint Apr. 29, 1865.

three or more commissioners, learned in the law and in the history of Massachusetts, whose duty it shall be to prepare for publication a complete copy of the statutes and laws of the province and state of Massachusetts Bay, from the time of the province charter to the adoption of the constitution of the Commonwealth, including all the sessions, acts, private and public, general and special, temporary and perpetual, passed from time to time by the general court, all incorporations of towns and parishes, and all other legislative acts of legal or historical importance appearing in the records of the general court, with suitable marginal references to the statutes and judicial decisions of the province and Commonwealth, the orders of the king in council, and to such other authorities as in their opinion may enhance the value and usefulness of the work, and to append to the same a full and complete index.

Resolved, That said copy, when so prepared and completed shall be deposited in the office of the secretary of the Commonwealth.

Resolved, That for the purpose of procuring a manuscript copy of said statutes, and for other clerical assistance, a sum not exceeding one thousand dollars shall be allowed and paid out of the treasury from time to time upon the approval of the governor.

COMMISSIONERS APPOINTED.

May 17, 1865. [John H. Clifford, of New Bedford, Ellis Ames of Canton and Abner C. Goodell of Salem were appointed commissioners under the above resolve.

1866. The next year they reported to the Governor and Council what examinations they had made of the records of resolves, etc., and that the appropriation was insufficient for the purpose contemplated by the resolve; that Mr. Ames had completed his set of the public acts as far as practicable, having supplied omissions by reprints from other collections, and was willing to sell it to the Commonwealth for a sum much less than it cost him in time and money. The following Resolve was passed for the purchase of Mr. Ames's collection :—]

1866

[CHAP. 35.]

RESOLVE RELATING TO THE PROVINCIAL LAWS.

Apr. 7, 1866. *Resolved*, That the governor and council are hereby authorized to expend a sum not exceeding fifteen hundred dollars, for the purpose of procuring and placing in the office of the secretary of the Commonwealth a copy of all the laws of the

province of Massachusetts Bay, with such notes and references as shall be deemed expedient, and may draw a warrant or warrants therefor.

[The above resolve providing for the purchase of Mr. Ames's collection allowed the money appropriated in 1865, to be applied to the expense of preparing the MS. collection. The Commissioners were ordered to proceed, as follows:—]

*Commonwealth of Massachusetts,
Executive Department,
Boston, July 3, 1866.*

It is ordered, That the Commissioners appointed by the July 3, 1866. Governor and Council under the provisions of Chap. 43 of the Resolves of 1865, entitled "Resolves relating to the publication of the Provincial Statutes" be requested to prepare, as soon as the same can properly be done, a manuscript copy of all the Laws not printed in the Sessions Acts from 1692 to 1774, under said Resolve.

[The Commissioners made to the Governor and Council the final report of their doings under the Resolve of 1865, chap. 43, in which they declare Mar. 1, 1867. "The cost of printing they have not considered because the materials collected will admit of much reduction in bulk * * * and until these materials have been fully edited and prepared for the press it would be useless to attempt such a computation. The question of the further prosecution of their labors in the direction started upon, and the propriety of printing * * * are, of course, for the legislature to consider.]

[CHAP. 87.]

RESOLVES FOR PRINTING THE PRESENT EDITION.

Resolved, That the governor with the consent of the council be authorized to cause to be prepared for publication the acts and laws of the late province of Massachusetts Bay, with such of the laws and orders recorded in the general court record as are of legal and historical importance, from the arrival of the province charter in the year sixteen hundred and ninety two, to the seventeenth day of June, in the year seventeen hundred and seventy-four,* and to contract for the printing of one volume of the same during the present year, to be distributed according to the provisions of chapter three, section two, of the General Statutes.

Resolved, That the sum of ten thousand dollars is hereby appropriated for the publication of said laws, of which sum not above three thousand dollars shall be expended during the present year.

[A Commission under this resolve bearing date Oct. 18, 1867, was issued to Ellis Ames and Abner C. Goodell, some time later, and under this commission the work has been conducted to date.]

* Extended to the year 1790 by Resolve, 1884, chap. 56.

COMMENTS AND CRITICISMS.

FROM THE NORTH AMERICAN REVIEW, VOL. CXI, p. 238-245.

1870.

* * * Five years ago the Legislature of the Commonwealth authorized the appointment by the governor of three or more commissioners "learned in the law and in the history of Massachusetts to prepare for publication a complete copy of the Statutes and Laws of the Province and State of Massachusetts Bay from the time of the Province charter to the adoption of the Constitution of the Commonwealth;" a work which was diligently executed by those eminent lawyers, Ex-Governor Clifford, Mr. Ellis Ames, of Canton, and Mr. Abner C. Goodell, of Salem. This preliminary work being done, the General Court, three years ago, authorized the printing and publication of the series of Provincial Statutes, of which accordingly the first volume is now before us, covering the period between the charter of William and Mary and the death of Anne (1692-1714).

The book has been edited by Mr. Ames and Mr. Goodell, with the skill and diligence promised by the reputation of those distinguished jurists. It contains all the public acts known to have been passed within the period, except four which have not yet been found, but which are known to have related only to grants of pay to the Governor and the county commissioners and to assessments of taxes. It is furnished with a complete apparatus for the facilitating of reference; with an elaborate index of subjects, with a table of names of persons and places, and with lists of the titles of public acts, private acts, joint resolves and orders, and separate resolves of each branch of the legislature. It presents the marginal notes of the old impressions, as a sort of nearly contemporaneous commentary by competent persons, and thus, "nearly of equal authority with the laws themselves." Against each act subsequently referred to in any reported decision of the Supreme Court it inserts a memorandum to that effect; and against each act disallowed by the English government by virtue of a clause in the new charter, the fact, the date, and generally the alleged reasons of such disallowance are recorded. Finally, the record of the acts of each General Court is followed by notes relating to their history and policy, the objections made against them, whether here or in England, and the manner in which they were affected by later legislation, the material for these comments being largely drawn from the journals and files of the English Privy Council and of its Committee for Trade and Plantations.

Nothing need be said to show how great is the interest of

this work alike for the general student of history and for the professional jurist. To the former it is especially attractive from its relation to that social revolution which was brought about in Massachusetts by the substitution of the provincial charter for the primitive charter of King Charles the First.

* * * * *

To undertake to comment on the contents of a thick statute book would be something like attempting to make an abstract of a dictionary. A thoughtful reader of this volume will see reason to apply to many and many a page the remark forced from the unfriendly but able and knowing Chalmers when he compared New England with the colonies of the South.

* * * * *

The course of nearly another prosperous century has now added its testimony to the wholesomeness and durable efficacy of those primitive regulations, and this, too, in respect to matters more vital than were dreamed of in the philosophy of that juiceless economist.

1874

PROCEEDINGS OF THE MASSACHUSETTS HISTORICAL SOCIETY.

REMARKS BY HON. B. F. THOMAS.

Judge Thomas spoke of the advantage of studying history Feb. 26, 1874. by aid of the statutes of a country, and gave some interesting illustrations of the time of Henry VIII, showing the low price of labor and the corresponding low price of living among the lower classes. He referred, also, for a similar purpose, to the value of the recently published volume of Province Laws, issued under editorship of Messrs. Ames and Goodell; and he moved that the subject of that volume be referred to a committee, who should report upon it. His motion was adopted, and Messrs. Thomas and Ames were appointed on the committee.—*Feb. 26, 1874, Mass. Hist. Soc. Proc. Vol. 13, p. 253.*

BOSTON DAILY GLOBE OF DEC. 23, 1874.

We have already acknowledged the receipt of the second Dec. 23, 1874. volume of the Acts and Resolves, public and private, of the Province of the Massachusetts Bay, from and including 25th of

May, 1715, to and including April 24, 1742. In the reprinting of our ancient statutes the beginning of the provincial period seems a proper starting-point. There has been no general repeal of the provincial statutes, whereas of the colonial statutes it was the law of the day and so regarded at the time by everybody on both sides of the Atlantic, and for a century afterwards, that by the arrival of the provincial charter, after the repeal of the colonial charters, the statutes passed by the colonial legislatures had become annulled. * * *

We notice in both this and the preceding volume of the Provincial Statutes, that the acts were not enumerated according to the year of the British sovereign, agreeably to the English practice, which was followed here, beginning with and after 1726. How, in our abridged edition of those laws in 1814, *flagrante bello*, we suffered any of our provincial statutes to be styled as of such and such a chapter of such and such a year of George III—whose troops had just then burnt our national capital—is past our comprehension. * *

Did the six General Courts of Massachusetts of the Revolution, before the Constitution, the first of which began July 19, 1775, and the last of which ended October 4, 1780, enumerate their acts and laws as of such and such a chapter of such and such a year of George III? and could they have done so without infinite disgrace? After the year 1725, when Mr. West reported as above stated, there was Toryism enough imported into the province to bring about a British style of enumeration of the provincial statutes, which ceased more than five years before the Constitution went into operation, and when British rule ceased.

1875

REMARKS BEFORE THE AMERICAN ANTIQUARIAN SOCIETY,
BY THE HON. P. E. ALDRICH.

Oct. 21, 1875.

* * Anything like a full treatment of the subject of criminal law, during our Constitutional period, would require an investigation into the condition of that law during the antecedent colonial period. For otherwise it will be seen to be impossible to determine the exact state of the criminal law at the time of the adoption of our State Constitution, in 1780. By the 6th section of the 6th chapter of that instrument it is provided that "All laws which have heretofore been adopted

and used and approved in the Province, Colony, or State, of Massachusetts Bay, and usually practised on in the courts of law, shall still survive and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this Constitution."

But as the earliest published reports of the decisions of the Supreme Judicial Court do not commence until nearly twenty-five years after the adoption of the Constitution, they do not furnish us the means of ascertaining what laws were then "usually practised on in the Courts of law."

At a later period, in consequence of this uncertainty as to the state of the law, a resolve was passed by the legislature, in 1812, appointing "Hon. Nathan Dane, William Prescott, and Joseph Story, Esquires, a committee to collect the charters and public and general laws of the late Colony and Province of Massachusetts Bay." And it was further resolved, that said Committee, "after they shall have collected and examined the same laws, report to the legislature such laws as are not repealed, and which in their opinion, require to be repealed."

The Report contemplated by the last part of this resolve, is not to be found among the very extensive collection of legislative documents in the library of this Society. And, if found, it probably would not show what Colonial and Provincial acts had been repealed before or at the commencement of our constitutional history.

FROM THE NORTH AMERICAN REVIEW, VOL. CXX. P. 231.

The second volume of the Provincial Laws of Massachusetts, 1875. prepared by Mr. Ames and Mr. Goodell, under the authority of the Commonwealth, was all but ready for publication, when the whole edition with the stereotype plates was destroyed by the great fire in Boston in 1872. We receive a copy of the reprint just as we dismiss the last sheets of this number. We expressed our sense of the singular value of the work at the time of the appearance of the first volume four years ago. *

* * We repeat that it is impossible to speak in too high praise of the execution of this work. Of course we have not

verified the correctness of the copies of the statutes, extending in the two volumes through two thousand closely printed pages. But there is every appearance of the extremest exactness in the transcription. The book contains the abundant wealth of a wide and accurate learning, and the apparatus of the tables and indexes furnishes perfectly fitting keys for access to the heaped-up treasures.

1882

PROCEEDINGS OF THE AMERICAN ANTIQUARIAN SOCIETY: REPORT ON THE LIBRARY.

- Oct. 21, 1882. * * The opportunity offered, by the sale of Judge Wilkinson's library, to bid for early Massachusetts Laws, was improved, but without result. However, we do not despair of increasing our collection, since among our members who are students in this dry but interesting department, are Dr. George H. Moore, Ellis Ames, Esq., Hon. P. Emory Aldrich and William S. Barton, Esq. The reprints prepared by the state commissioners, and to which our set of originals contributed, make absolute completeness less important, though still desirable.
- Apr. 25, 1883. Among the more noteworthy books acquired are the following:—
- * * * * *
- * the Fourth volume of the Reprint of the Acts and Resolves of the Province of Massachusetts Bay, are very acceptable and valuable contributions. [*Ibid.*]

1884

EXTRACT FROM A PAPER READ BEFORE THE AMERICAN ANTIQUARIAN SOCIETY BY HON. HAMILTON. R. STAPLES, ONE OF THE JUSTICES OF THE SUPERIOR COURT.

- Apr. 30, 1884. The four large volumes already published of the Acts and Resolves of the Province of the Massachusetts Bay, prepared

by the Commissioners, Mr. Ellis Ames and Mr. Abner C. Goodell, Jr., embrace three quarters of a century, viz. : from 1692-93 to 1768. These volumes supply abundant material for the history of the State as well as of many of its municipalities. They enable us to trace the development almost from germ life of our present system of laws and of government. They show us what the political and social life of the province was, and the perpetuity of that life under new forms and conditions. * * * * *

All through these volumes there is an atmosphere of repression. The province was allowed to manufacture nothing that could come into competition with the manufactures of England. Although our people yielded to this claim they never believed in its justice, and, as time passed on, it proved more and more detrimental to the prosperity of the State. The necessity of a change was the one underlying cause of the Revolution.

TABLE

Showing the progress of the work on the present edition of the PROVINCE LAWS.

Under Resolve of 1865, chap. 43. [Apr. 29, 1865].

Commission dated
May 17, 1865.

1865.

Commissioners { JOHN H. CLIFFORD.
 ELLIS AMES.
 ABNER C. GOODELL, jr.

1866. Mr. Ames's collection of the early editions of the public acts of the
July 1, Province (1692-1780) completed, and purchased of Mr. Ames, by the Gov-
 ernor and Council, under the Resolve of 1866, chap. 35. [Apr. 7, 1866.]

July 3. Order in Council that the Commissioners proceed to prepare "a MS.
 copy of all the laws not printed in the sessions acts."

 The Commissioners having completed, under the foregoing order, the
1867. MS. additions to the Ames collection, made their final report, and delivered
March 1, into the office of the Secretary of the Commonwealth five MS. volumes of
 about 550 pages each, copied out of the General-Court Records. They
 represented that they had performed all the duties required of them as
 far as practicable.

[For their twenty-two months' service under this Commission the Commissioners
received \$750. Although the work and remuneration were not equally appor-
tioned, this sum being an average of \$136.36 per annum to each commissioner, was
intended to cover *personal expenses only*. The further sum of \$468.64 was paid to
copyists and for stationery and binding.]

1867.

Under Resolve of 1867, chap. 87. [June 1, 1867.]

Commission dated
Oct. 18, 1867. Delivered
to Goodell, later, who
qualified Mar. 18, 1868.

Commissioners { ELLIS AMES.
 ABNER C. GOODELL.

1869. Vol. I, (904 pages) 1692-1714, was published.

1872. Vol. II, (1,175 pages) 1715-1741, printed and stitched by the binder, and
 the index prepared for the printers, when the great fire of Nov., 1872,
 destroyed the whole edition, and the plates of this volume and of volume I.

Vol. II, 1715-1741 (1,187 pages), reprinted and published. 1874.

Vol. III, 1742-1756, (1,175 pages). The imprint is of this date; but 1878. Mr. Goodell, having his vision impaired by congestion of the brain, was obliged to leave the editing of the last year (1756) and the preparation of the indexes to others. The volume was published the next year (1879).

THE AVERAGE ANNUAL REMUNERATION OF THE COMMISSIONERS TO 1879. THIS DATE WAS \$124.90 TO EACH COMMISSIONER—a sum intended to cover only actual expenses of travel, etc., though claimed in part as per diem for services in order to avoid the inconvenience of keeping an account of numerous small items which would aggregate, probably larger than the whole amount received.

From 1879, Mr. Goodell made his editorial duties his chief and regular employment, devoting to them more than the average hours of office work in any of the regular departments of the State Service. FOR THIS WORK HE HAS RECEIVED AS COMPENSATION, \$5.00 PER DAY, OR, MORE EXACTLY, \$160 PER MONTH. At first, three clerks were employed on this work, in a room in the basement of the State House, at \$4.00 per week each, beginning Dec. 18, 1879.

Vol. IV, 1757-1768 (1182 pages), was printed by Rand, Avery & Co. 1881. The contract with Rand, Avery & Co., as State Printers (who had succeeded Wright & Potter), expiring in June, 1882, no copy for Vol. V was given out to them.

A question arose between Rand, Avery & Co., and Wright & Potter, as to which should proceed with the printing. Conflicting opinions were given on the subject to the respective claimants by Attorney-General Allen and ex-Attorney-General Train.

The Commissioners' after much loss of time, finally ended the dispute by making a contract with Wright & Potter, by which this work was brought expressly within the general contract for the State Printing. This was Dec. 20, 1882, and on the same day the first twenty-six pages of the copy of Vol. V were given to the Printers.

Vol. II, 1715-1741 (1187 pages), in another (the third) edition, was 1884. done by Wright & Potter, the plates being corrected for this purpose by the Editor. To expedite the work, the press-work and binding were executed by the Salem Press, at the suggestion of the Editor.

Vol. V, 1769-1780 (1631 pages), was published. 1886.

Vol. VI, Private acts and resolves, 1692-1707. 519 pages of this volume were set up by the printers by March 23, 1888. These were stereotyped to p. 446, and the rest were ready for the foundry, when Mr. Goodell was taken suddenly ill, and continued unable to attend to his duties in Boston until the following October.

Vol. VII. The materials for a seventh volume are already prepared, and the work of selecting and copying from the General Court Records has been done to the year 1762, and, with the aid of a sufficient force, can be completed to the year 1780 during the present year.

The whole number of pages put in type since 1879, to date, is 3368 or an average of about one and one-half pages per day, for all working days.

Boston, Feb., 1889.

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